

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

PLUM CREEK TECHNOLOGY, LLC,

Plaintiff,

v.

Case No. 8:19-cv-1974-T-60CPT

NEXT CLOUD, LLC, and  
SKYIGOLF, LLC,

Defendants.

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**ORDER ADOPTING REPORT AND RECOMMENDATION**

This matter is before the Court on consideration of the report and recommendation of Christopher P. Tuite, United States Magistrate Judge, entered on February 5, 2020. (Doc. 29). Judge Tuite recommends that Plaintiff Plum Creek Technology LLC's amended motion for default judgment (Doc. 23) be granted in part and denied in part. Specifically, Judge Tuite recommends the Court find that Plaintiff is entitled to default judgment against Defendant Next Cloud on Counts I and III, but that the Court defer entering final judgment until it has adjudicated Counts II, IV, and V, or until Plaintiff voluntarily dismisses these remaining claims. Neither Plaintiff nor Defendants filed an objection to the report and recommendation, and the time to object has expired.

On February 27, 2020, Plaintiff moved to voluntarily dismiss the remaining claims. (Doc. 32). As such, the Court dismissed without prejudice Counts II, IV, and V of the amended complaint. (Doc. 33). On February 28, 2020, Plaintiff filed an identical or substantially similar motion requesting the entry of final default judgment. (Doc. 34).

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject, or modify the magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); *Williams v. Wainwright*, 681 F.2d 732 (11th Cir. 1982). In the absence of specific objections, there is no requirement that a district judge review factual findings *de novo*, *Garvey v. Vaughn*, 993 F.2d 776, 779 n.9 (11th Cir. 1993), and the court may accept, reject, or modify, in whole or in part, the findings and recommendations. 28 U.S.C. § 636(b)(1)(C). The district judge reviews legal conclusions *de novo*, even in the absence of an objection. *See Cooper-Houston v. S. Ry. Co.*, 37 F.3d 603, 604 (11th Cir. 1994); *Castro Bobadilla v. Reno*, 826 F. Supp. 1428, 1431-32 (S.D. Fla. 1993), *aff'd*, 28 F.3d 116 (11th Cir. 1994) (table).

Upon due consideration of the record, including Judge Tuite's report and recommendation, the Court adopts the report and recommendation. The Court agrees with Judge Tuite's detailed and well-reasoned factual findings and legal conclusions, including that the motion for final default judgment should be granted as to Counts I and III of Plaintiff's amended complaint. Because Plaintiff has

dismissed Counts II, IV, and V, the Court finds it appropriate to enter final judgment at this time.

Since the Court is adopting Judge Tuite's report and recommendation and granting final default judgment based on Plaintiff's November 29, 2019, amended motion (Doc. 23), Defendant's recently filed motion for default judgment (Doc. 34) is denied as moot.

Accordingly, it is

**ORDERED, ADJUDGED, and DECREED:**

- (1) Judge Tuite's report and recommendation (Doc. 29) is **AFFIRMED** and **ADOPTED** and **INCORPORATED BY REFERENCE** into this Order for all purposes, including appellate review.
- (2) Plaintiff's amended motion for default judgment (Doc. 23) is hereby **GRANTED**.
- (3) The Clerk is directed to enter final default judgment in favor of Plaintiff Plum Creek Technology LLC, and against Defendant Next Cloud, LLC, on Counts I and III of the amended complaint (Doc. 21), in the amount of \$78,607.55.
- (3) The Court reserves jurisdiction to address any request for an award of attorney's fees and costs. Plaintiff is directed to file any motion requesting such relief on or before March 19, 2020.
- (4) Plaintiff's motion for entry of default judgment (Doc. 34) is hereby **DENIED**

**AS MOOT.**

- (5) The Clerk is directed to terminate any pending motions and deadlines, and thereafter close this case.

**DONE** and **ORDERED** in Chambers, in Tampa, Florida, this 6th day of March, 2020.



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**TOM BARBER**  
**UNITED STATES DISTRICT JUDGE**